

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.:	10/799,963	§	Confirmation No.:	9041
Applicant:	Mo-Han Fong	§		
Filed:	03/12/2004	§		
TC/A.U.:	2617	§		
Examiner:	Amancio Gonzalez	§		
Title:	Communicating a	§		
	Broadcast Message to	§		
	Change Data Rates of	§		
	Mobile Stations	§		
Docket No.:	16634RRUS02U	§		
	(ERC.0008US)	§		

Mail Stop AF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

It is respectfully submitted that the obviousness rejection of independent claim 1 over Bae and Kadaba is clearly erroneous.

To make a determination under 35 U.S.C. § 103, several basic factual inquiries must be performed, including determining the scope and content of the prior art, and ascertaining the differences between the prior art and the claims at issue. *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 U.S.P.Q. 459 (1965). Moreover, as held by the U.S. Supreme Court, it is important to identify a reason that would have prompted a person of ordinary skill in the art to combine reference teachings in the manner that the claimed invention does. *KSR International Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1741, 82 U.S.P.Q.2d 1385 (2007).

As conceded by the Office Action, Bae fails to disclose that the broadcast message sent to plural mobile stations includes a particular data rate that is to be used by the plural mobile stations over the reverse wireless link. 03/02/2010 Office Action at 4. Instead, the Office Action

cited Kadaba as purportedly disclosing the claimed feature missing from Bae. *Id.* Specifically, the Office Action pointed to ¶ [0069], lines 11-14, of Kadaba. *Id.* at 2. This passage of Kadaba notes that a wireless unit 150 (mobile station) transmits a data burst using a power, rate, and duration as indicated by the base station. However, importantly, note that the data rate specified by a base station is included in a control message that is targeted to a single wireless unit (single mobile station). Paragraph [0035] of Kadaba discusses the forward uplink scheduling channel (F-USCH). The F-USCH identifies **the** wireless unit (note singular sense of “wireless unit”) that is to transmit at the prescribed time and specifies the transmission format. Kadaba, ¶ [0035]. This passage of Kadaba states that the transmission format consists of the size of the transmission, the rate at which the transmission is to occur, and the duration of the transmission. *Id.*

Importantly, note that ¶ [0035] of Kadaba also states that the F-USCH is a time division multiplexed (TDM) channel which schedules grants to **individual** wireless units. Kadaba also states that the F-USCH contains **a** wireless unit identification (MAC ID). Thus, it is clear that the F-USCH is sent to **a single** wireless unit, since the F-USCH is used to schedule grants to individual wireless units, and the F-USCH contains just a single wireless unit identification (MAC ID). There is absolutely no hint whatsoever that the F-USCH is a broadcast message that includes a particular data rate that is to be used by the plural mobile stations over the reverse wireless link.

The Response to Arguments section argued that “Applicant fails to acknowledge that Bae already discloses reverse link data flow control for a plurality of access terminals where the base station sets rate limit fields for the data rates transmitted by the mobile stations...” 03/02/2010 Office Action at 2. The Response to Arguments section cited specifically to ¶ [0077], lines 10-16, of Bae. *Id.* This cited passage of Bae refers to an RRL message that is sent to mobile stations. The RRL message has 29 records, each including a data rate assigned to a corresponding MACindex, where each MACindex identifies a corresponding mobile station. Bae, ¶ [0017]. Thus, it is clear that the RRL message contains different records for specifying corresponding rate limits for respective mobile stations. This teaching of Bae is different from the subject matter of claim 1, which recites that the broadcast message includes **a** particular data rate (note singular sense of “particular data rate”) that is to be used by the **plural** mobile stations over the reverse wireless link. Thus, whereas Bae teaches the use of corresponding rate limits

for respective mobile stations, claim 1 specifically recites that broadcast message contains a particular data rate that is to be used by the plural mobile stations.

In view of the foregoing, it is clear that the hypothetical combination of Bae and Kadaba would not have led to the claimed subject matter.

Moreover, a person of ordinary skill in the art would not have been prompted to combine the teachings of Bae and Kadaba to achieve the claimed subject matter. Bae refers to broadcasting a reverse activity bit (RAB), which can have either a binary value 0 or a binary value 1. *See* Bae, ¶ [0011]. If RAB has binary value 0, then that causes a reverse data rate to be increased. On the other hand, if RAB has binary value 1, then that causes the reverse data rate to be reduced. RAB as used in Bae is thus an indicator to a mobile station to increase or decrease the data rate. However, RAB does not actually specify any particular data rate, which is different from the subject matter of claim 1, where the broadcast message includes a particular data rate that is to be used by the plural mobile stations over the reverse wireless link.

Moreover, the RRL message in Bae specifies corresponding rate limits for respective mobile stations, and thus, also does not satisfy the requirement of claim 1 that the broadcast message includes **a** particular data rate that is to be used by the plural mobile stations over the reverse wireless link. Kadaba, on the other hand, discloses use of a channel (F-USCH) to **individually** schedule a wireless unit, where the F-USCH contains the data rate for the individual wireless unit. It is clear that a person of ordinary skill in the art would not have been prompted to combine the teachings of Bae and Kadaba to achieve the claimed subject matter.

In view of the foregoing, it is respectfully submitted that the obviousness rejection of claim 1 is clearly erroneous.

Independent claims 20 and 26 are allowable for similar reasons as claim 1.

The rejection of independent claim 10 over Bae and Kadaba is also erroneous. With respect to claim 10, the Office Action conceded that Bae fails to disclose sending a broadcast message to plural mobile stations to cause the plural mobile stations to set respective data rates to a value less than or equal to an autonomous data rate of each of the corresponding mobile stations. 03/02/2010 Office Action at 6. Instead, the Office Action cited Kadaba as purportedly disclosing claimed features conceded to be missing from Bae. Specifically, the Office Action pointed to the F-UCACH frame mentioned in Kadaba. Like the F-USCH frame discussed in connection with claim 1, it appears that the F-UCACH frame is also used to communicate to a

single wireless unit. As stated in ¶ [0036] of Kadaba, the F-UCACH is used to both control and acknowledge transmissions from the wireless unit (note singular sense of wireless unit). There is absolutely no hint that the F-UCACH frame is a broadcast message sent to plural mobile stations to cause the plural mobile stations to set respective data rates to a value less than or equal to an autonomous data rate of each of the corresponding mobile stations.

Therefore, the hypothetical combination of Bae and Kadaba would not have led to the claimed subject matter. Moreover, in view of the significant differences between the claimed subject matter and the teachings of Bae and Kadaba, a person of ordinary skill in the art would not have been prompted to combine the teachings of these references to achieve the claimed invention.

Therefore, the obviousness rejection of claim 10 is erroneous.

The rejection of independent claim 21 is similarly erroneous.

Independent claim 13 is also non-obvious over Bae and Kadaba. Contrary to the assertion by the Office Action, Kadaba fails to disclose or hint at a grant message having an identifier set to a predetermined value to provide a broadcast indication for indicating to the plural mobile stations that the mobile stations are to change data rates for transmissions over a reverse wireless link. The F-USCH (identified by the Office Action on page 8 as corresponding to the “grant message” of claim 13) does not have the identifier set to a predetermined value to provide a **broadcast indication** as recited. The F-USCH has a single MAC ID to identify a single wireless unit.

Therefore, it is respectfully submitted that the hypothetical combination of Bae and Kadaba does not provide any hint of the subject matter of claim 13. Moreover, in view of the significant differences between the claimed subject matter and the reference teachings, a person of ordinary skill in the art would not have been prompted to combine the reference teachings to achieve the claimed subject matter.

Dependent claims are allowable for at least the same reasons as corresponding independent claims.

In view of the foregoing, it is respectfully requested that the final rejections of the claims be withdrawn. The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 20-1504 (ERC.0008US).

Respectfully submitted,

Date: June 1, 2010

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